UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI EASTERN DIVISION

LLOYD V. MURPHEY, et al.,)		
Plaintiff,)		
v.)	Case No.:	4:11-cv-2114-JCH
ROBERT J. BACKER, et al,)		
Defendants.)		

MOTION TO DISMISS WITH PREJUDICE DEFENDANTS UNITED STATES OF AMERICA AND WEST COUNTY RADIOLOGICAL GROUP

COME NOW Plaintiffs by and through their attorneys and pursuant to Rule 41(b) of the Federal Rules of Civil Procedure and hereby request this Court enter its Order dismissing *with prejudice* defendants United States of America and West County Radiological Group. In support thereof, Plaintiffs state:

- 1. The parties in the matter mediated this case on February 13, 2013.
- 2. During the mediation, Plaintiffs reached a settlement with Defendants United States of America and West County Radiological Group.
 - 3. Plaintiffs have *not* settled their claims as to Defendant Robert Backer, M.D.
- 4. Rule 41(b) FRCP provides that an action may be dismissed at Plaintiffs' request only by court order.

WHEREFORE, Plaintiffs respectfully request that their claims be dismissed *with*prejudice only as to Defendants United States of America and West County Radiological

Group.

Case: 4:11-cv-02114-JCH Doc. #: 47 Filed: 04/01/13 Page: 2 of 2 PageID #: 278

WITZEL KANZLER DIMMITT & KANZLER, LLC

/s/ David A. Dimmitt

Richard C. Witzel, #22690 David A. Dimmitt, #39555 2001 S. Big Bend Boulevard St. Louis, MO 63117 (314)-645-5367 (314) 645-5387 FAX rwitzel@wkllc.com david@wkllc.com